

# EXHIBIT 5

1

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA - SAN JOSE DIVISION  
3 - - - - -X  
4 APPLE INC., a California :  
5 Corporation, :  
6 Plaintiff, :  
7 v. :  
8 SAMSUNG ELECTRONICS CO., LTD., a :  
9 Korean corporation; SAMSUNG : Civil Action No.  
10 ELECTRONICS AMERICA, INC., a New : 12-cv-00630-LHK (PSG)  
11 York corporation; and SAMSUNG :  
12 TELECOMMUNICATIONS AMERICA, LLC, :  
13 A Delaware limited liability :  
14 Company, :  
15 Defendants. :  
16 - - - - -X  
17 (Caption continued on next page)  
18 HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY  
19 VIDEOTAPED DEPOSITION OF JAMES R. KEARL, Ph.D.  
20 Salt Lake City, Utah  
21 Friday, October 4, 2013  
22 9:22 a.m.  
23 Job No.: 44751  
24 Pages: 1 - 307  
25 Reported By: Vickie Larsen, CSR/RMR

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1 (Caption continued from previous page)

2 - - - - -X

3 SAMSUNG ELECTRONICS CO., LTD., a :

4 Korean corporation; SAMSUNG :

5 ELECTRONICS AMERICA, INC., a New :

6 York corporation; and SAMSUNG :

7 TELECOMMUNICATIONS AMERICA, LLC, :

8 A Delaware limited liability :

9 Company, :

10 Counterclaim-Plaintiffs, :

11 V. :

12 APPLE INC., a California :

13 Corporation, :

14 Counterclaim-Defendant. :

15 - - - - -X

16 Videotaped Deposition of JAMES R. KEARL, Ph.D.,

17 held at the offices of:

18

19 HILTON SALT LAKE CITY CENTER

20 255 South West Temple

21 Salt Lake City, Utah 84101

22 (801) 328-2000

23

24 Pursuant to notice, before Vickie Larsen, CSR, RMR,

25 and Notary Public in and for the State of Utah.

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A P P E A R A N C E S

On behalf of Plaintiff and Counterclaim-Defendant

Apple Inc.:

Michael R. Heyison, Esquire

Joseph J. Mueller, Esquire

Russell Tonkovich, Esquire

WILMER CUTLER PICKERING HALE and DORR

60 State Street

Boston, Massachusetts 02109

(617) 526-6396

On behalf of Defendants and

Counterclaim-Plaintiffs Samsung parties:

Scott B. Kidman, Esquire

Alex Baxter, Esquire

Chris E. Price, Esquire

QUINN EMANUEL URQUHART & SULLIVAN

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Los Angeles, California 90017

(213) 443-3000

Also Present:

Tyler Larsen (Videographer)

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By Mr. Heyison	301

E X H I B I T S

(Attached to transcript)

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E X H I B I T S

KEARL DEPOSITION EXHIBIT PAGE

Exhibit 8 Expert Rebuttal Report of 190

Dr. James R Kearl

Exhibit 9 Letter dated August 3, 2013, to 204

Irving Williamson from Michael

B.G. Froman

10:19:23

10:20:25

**KEARL00042**

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A. Correct. I'm happy to go to my report.

It's in Appendix A, so -- but it's not here.

Q. So it's in Appendix A.

And what I'm trying to do is, see, I'm  
trying to get the August 19 version of the report so I  
can put it in front of you. But since I don't have it  
you see I'm a little bit -- it's a little difficult.

MR. KIDMAN: We may have one. At the  
break we can look and see if we've got a clean copy of  
one.

MR. HEYISON: Okay. That would be good.  
I think Russ went to make a copy of it.

10:21:14

10:21:15

10:21:17

10:21:21

10:21:25

10:21:27

10:21:30

10:21:34

10:21:40

10:21:41

10:21:45

10:21:46

10:21:48



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10:22:03

10:22:09

10:22:11

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10:22:19

10:22:23

10:22:26

10:22:31

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10:22:36

10:22:40

10:23:16

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		45	
1	[REDACTED]		[REDACTED]
	[REDACTED]		[REDACTED]
	[REDACTED]		[REDACTED]
	[REDACTED]		[REDACTED]
	[REDACTED]		[REDACTED]
	[REDACTED]		[REDACTED]
	[REDACTED]		[REDACTED]
7	Q.	Okay. And, well, we know -- you do know	10:23:35
8		that LG is a company that makes smart phones, correct?	10:23:38
9	A.	Yes.	10:23:42
10	Q.	And you do know that Intel is the largest	10:23:42
11		chip maker in the world, correct?	10:23:46
12	A.	Of certain kinds of chips.	10:23:48
13	Q.	Yes.	10:23:51
14	A.	Not all chips.	10:23:52
15	Q.	Okay. They're the largest maker of CPUs	10:23:53
16		in the world, correct?	10:23:57
17	A.	That I don't know.	10:23:58
18	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]		[REDACTED]
	[REDACTED]		[REDACTED]
21	Q.	Okay. And Samsung purchased the '239	10:24:10
22		patent and one other patent, the '716 patent, correct?	10:24:15
23	A.	Yes.	10:24:21
24	Q.	Okay. And they did that in September	10:24:22
25		2011?	10:24:25

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1 the break. But looking at Samsung's purchase of the  
2 '757 patent.

10:54:51

10:54:58

3 So the '757 patent was assigned to a  
4 company called Request, correct?

10:55:05

10:55:09

5 A. Yes.

10:55:11

6 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10:56:17

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1	A. Yes.	10:56:18
2	Q. Okay. I've just -- I need to get a	10:56:18
3	document. Excuse me. Just give me one minute.	10:56:26
4	Why don't we -- can we go off the record	10:56:34
5	for a sec?	10:56:38
6	THE VIDEOGRAPHER: We're going off the	10:56:39
7	record. The time is 10:56.	10:56:41
8	(There was a break taken.)	10:57:15
9	THE VIDEOGRAPHER: We are going on the	10:58:52
10	record. The time is 10:59.	10:59:06
11	(Exhibit 5 was marked for identification.)	10:59:20
12	MR. HEYISON: So I've -- we've marked as	10:59:22
13	Exhibit 5 what is Cholnoky Exhibit 3.	10:59:24
14	MR. KIDMAN: Do you happen to have an	10:59:32
15	extra?	10:59:34
16	MR. HEYISON: I'm sorry, yeah.	10:59:34
17	Q. Okay. Have you seen this document	10:59:45
18	before, Doctor?	10:59:47
19	A. I don't recall.	10:59:49
20	Q. Okay.	10:59:51
21	A. If it's cited in my materials I've	10:59:53
22	considered then I have.	10:59:57
23	Q. Okay. So, Doctor, this -- if you look on	10:59:58
24	the second page of this document, [REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	11:00:13

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1 [REDACTED] [REDACTED] [REDACTED]  
 2 [REDACTED]  
 3 A. Correct. 11:00:28  
 4 Q. Okay. And you can't remember, sitting 11:00:29  
 5 here today, whether you considered this Exhibit 5 in 11:00:30  
 6 connection with preparation of your report, correct? 11:00:35  
 7 A. Well, let me -- let me clarify. If it's 11:00:40  
 8 -- to just tell you sort of the style in which the 11:00:43  
 9 report is written. 11:00:49  
 10 If it's listed in the materials 11:00:51  
 11 considered, then we had access to it. And I don't 11:00:52  
 12 remember whether I read it or not. 11:00:55  
 13 If it's in the footnotes, then in fact I 11:00:57  
 14 reviewed it personally. So all documents cited in the 11:00:58  
 15 footnotes I've seen and I -- we could go through. I 11:01:00  
 16 don't know whether this is cited in the footnotes or 11:01:04  
 17 not. 11:01:08  
 18 Q. But sitting here today, this document 11:01:09  
 19 doesn't ring a bell as something you've seen before? 11:01:10  
 20 A. No. I mean, I remember -- or recall that 11:01:13  
 21 [REDACTED] [REDACTED] [REDACTED] 11:01:16  
 [REDACTED] [REDACTED] [REDACTED]  
 [REDACTED] [REDACTED] [REDACTED]  
 [REDACTED] [REDACTED] [REDACTED]  
 [REDACTED] [REDACTED] [REDACTED]  
 [REDACTED] [REDACTED] [REDACTED] 11:01:40

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1

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

11:03:03

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1 [REDACTED] [REDACTED] [REDACTED]

2 [REDACTED]

3 [REDACTED] [REDACTED]

4 [REDACTED]

5 [REDACTED] [REDACTED]

6 [REDACTED] [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED] [REDACTED]

11 [REDACTED] [REDACTED] [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED] [REDACTED]

16 [REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED] 11:05:41

18 A. I don't remember. 11:05:44

19 Q. [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED] 11:06:18

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